



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://cao.co.la.ca.us>

DAVID E. JANSSEN
Chief Administrative Officer

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

February 20, 2007

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

Dear Supervisors:

**SPECIAL ENFORCEMENT BUREAU REPLACEMENT PROJECT
ACCEPT CONTRACTOR'S WORK
APPROVE APPROPRIATION ADJUSTMENT
APPROVE SETTLEMENT AGREEMENT WITH SIMGEL CO. INC.
AWARD VARIOUS CONSULTANT SUPPLEMENTAL AGREEMENTS
CAPITAL PROJECT (C.P.) 77397
(FIRST DISTRICT) (3-VOTES)**

JOINT RECOMMENDATION WITH THE SHERIFF THAT YOUR BOARD:

1. Accept the completed work by Simgel Co. Inc. (Simgel), for the Special Enforcement Bureau (SEB) Replacement Project, Phase I, C.P. 77397 and instruct the Sheriff's Department to notify Simgel of the action taken.
2. Approve the attached appropriation adjustment to transfer \$6,491,000 in appropriation from the Eugene C. Biscailuz Center (BC) Training Academy Project, Phase II, C.P. 86801 to the SEB Project, Phase I, C.P. 77397.
3. Approve and instruct the Sheriff or his designee to execute the attached Settlement Agreement and Waiver and Release of Claims, in the amount of \$1,477,228.73, which includes release of retention, with Simgel, general contractor, for the SEB Project, Phase I.
4. Award and authorize the Sheriff to execute Supplemental Agreement No. 2, with MACTEC Engineering and Consulting, Inc. (MACTEC), for additional geotechnical analysis, materials testing, and inspection services for a not-to-exceed fee of \$67,401.

5. Award and authorize the Sheriff to execute Supplemental Agreement No. 2, with SCS Engineers for additional site exploration and environmental recommendations for a not-to-exceed fee of \$46,510.
6. Award and authorize the Sheriff to execute Supplemental Agreement No. 4 with Kajima Associates (Kajima) for additional design and construction administration services for existing and proposed facilities and site improvements at SEB and the BC Regional Training Center for a not-to-exceed fee of \$412,000.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The recommended actions will provide financial compensation to the general contractor and the three consultants for additional work performed and fund the remaining work to complete SEB Project, Phase I. Additionally, the Chief Administrative Office (CAO) and Sheriff have agreed upon a corrective action plan to address the management of the Sheriff's future capital projects.

Project Background

Your Board has previously approved the renovation of the Sheriff's Biscailuz Regional Training Center to accommodate the relocation of the Special Enforcement Bureau (SEB) from East Los Angeles (Phase I) and the Training Academy from Whittier (Phase II). Both phases moved forward concurrently and your Board authorized the Sheriff to coordinate and direct the delivery of both phases.

Phase I entailed the refurbishment of the existing administration and kitchen/dining buildings, acquisition of a pre-engineered service garage, and the completion of related site work and utility connections to accommodate the SEB. The cost for Phase I was estimated at \$9,566,000.

Phase II included the refurbishment of vacant dormitories and carpenter shop buildings to house the relocation of the Training Bureau and Academy from Whittier. The Phase II renovation at Biscailuz was estimated to cost \$9,000,000. It was anticipated that the Training Academy's relocation would allow the Sheriff to cancel existing space leases and consolidate operations at the vacated Whittier site. Such a consolidation was estimated to annually save the Sheriff \$1,000,000 in cancelled lease costs.

As design and construction of both phases proceeded, subsurface conditions and methane vapors associated with the now closed Blanchard and Cogen Landfills (portions of which underlie the Biscailuz site) required significant modifications to the original grading, drainage, and site preparation plans. These issues were exacerbated by the heavy rains in the winter of 2005.

To address these issues and maintain each project's schedule, design plans were revised, grading and site preparation proceeded, and construction activities were initiated. To date, a significant portion of the Phase I project has been completed, including the site grading and improvement general contract work performed by Simgel, and the SEB has relocated to the Biscailuz site. Pending completion for Phase I are the service building, off-site storm drainage system for the entire Biscailuz site, landscaping, walkways, parking lot sealing/stripping, and signage. As the Phase I project progressed, however, it became apparent that the cost to complete Phase I would exceed the project's initial budget by \$6,491,000 as detailed in Attachment I. Further, \$1,900,911 of the anticipated cost overrun represented work that had been performed and completed by the general contractor and several consultants, but had exceeded the authorized monetary levels of their contracts.

With respect to the Phase II project, independent cost estimates obtained by Public Works indicate that the base project cost will increase from the original estimate of \$9.0 million to \$19.3 million due to refinement of the project scope and escalation since your Board's initial approval of the Phase II project in June 2004. In addition, the Sheriff has requested additional improvements in the Phase II project scope that would add an additional \$8.3 million in cost.

To address the budgetary shortfall in Phase I and rising cost estimate on Phase II, we are recommending halting work on the Phase II project. It is recommended that the remaining Phase I costs of \$6,843,000 be funded by \$352,000 in remaining Phase I funds and the transfer of \$6,491,000 from Phase II. The Phase II project scope will be reevaluated by the CAO and Sheriff.

In order to properly align contract and payment levels, it is recommended that a Settlement Agreement be executed with the general contractor, the agreements with the three consultants be supplemented, and payments in an aggregate amount of \$1,900,911 be authorized for the previously completed work. Finally, to ensure that the management of future construction and consultant contracts on the Sheriff's capital projects complies with the County's policies and requirements, it is recommended that the Sheriff's authority to manage future capital projects be curtailed.

Contracting Background

Overall, your Board has approved \$5,219,993 in base contracts, change order contingencies, and agreement supplements for the Phase I project. Based on direction from the Sheriff, however, the contractor and consultants have expended \$6,340,335 to date, which exceeds the currently authorized contract amount by \$1,120,342, as detailed in Attachment II and summarized below.

- On March 1, 2005, your Board adopted plans and specifications for Phase I of the grading and site work for the relocation of SEB and authorized the Sheriff to manage the Special Enforcement Bureau Replacement project. In May 2005, the County entered into a contract with Simgel for the work at a base contract amount of \$2,892,720. Subsequently, your Board increased contract change order authority in an aggregate amount of \$1,005,591, which brought the total contract authorization to \$3,898,311. The total amount of work performed by Simgel, however, exceeded the currently approved contract amount by \$594,431.
- On June 1, 2004 your Board approved an Architect/Engineer Agreement for design services with Kajima at a base amount of \$561,917. Three supplemental agreements were approved by your Board for \$473,000, increasing the total agreement value to \$1,034,917. Services provided by Kajima, however, exceeded the agreement value by \$412,000.
- MACTEC's agreement in the amount of \$58,265 for soil testing and inspection services was approved by your Board on June 1, 2004 and later supplemented by \$83,500. MACTEC performed work, however, which exceeded the agreement level by \$67,401.
- On June 21, 2005, your Board awarded a contract with SCS Engineers for site exploration and environmental recommendation services at an amount of \$70,000. One supplemental agreement in the amount of \$75,000 was approved by your Board but the overall work performed by the consultant exceeded the agreement amount by \$46,510.

It is important to note that Public Works has determined that the activities performed by the contractor and consultants were appropriate and necessary to complete the Phase I project. At issue is the failure to obtain your Board's approval to supplement the contract and agreements prior to the issuance of notices to proceed to the contractor and consultants.

Contract Review by Public Works

On September 22, 2006, as part of the SEB Project, Phase I, acceptance, the CAO notified your Board that his staff, along with personnel from the Sheriff, and Public Works, in consultation with County Counsel, were to review and evaluate some of the outstanding change order and claim requests from the general contractor and the consultants for the Sheriff's project at BC as there were preliminary indications that certain project costs were incurred without approval by your Board.

All pertinent project documents were reviewed by staff, and Public Works issued their report dated December 11, 2006 with findings that indicate the amount of work that was authorized by the Sheriff to proceed and the costs incurred by Simgel, MACTEC, SCS Engineers and Kajima exceeded the contract and change order amounts that were previously approved by your Board. Public Works' report indicated that the costs incurred appear to be acceptable, but would require supplements to the existing contract and agreements to accommodate the additional costs.

Based on the Public Works review, it has been determined that Simgel provided out of scope work resulting from various site design changes. The design changes are primarily due to unforeseen field conditions such as abandoned concrete curbs, asphalt paving and underground utility lines and additional landfill requirements by the Department of Health Services. The extra work caused the schedule to continue into the wet season which resulted in project delays for Simgel. The total amount of the additional work and the delay claim was reviewed by an independent cost estimator/scheduler, and Public Works, at the request of the CAO, negotiated a Settlement Agreement at \$1,375,000, plus retention in the amount of \$102,229 which is owed to Simgel under the base contract previously approved by your Board. The total payment to Simgel is \$1,477,229.

The additional re-grading required additional on-site inspection services from MACTEC in the amount of \$67,401. Additionally, Kajima performed additional design services in the amount of \$412,000 for the training academy and the realignment of the storm drain system to avoid placement of storm drain lines over the landfill; the addition of a new 9,000 square foot two-story classroom building; structural, mechanical and electrical upgrades and site improvements.

Furthermore, code requirements by DHS and the Regional Water Quality Control Board necessitated additional site exploration, structural and environmental recommendations and analysis of the storm drain alignment for potential settlement. SCS Engineers provided the additional services and the amount owed is \$46,510.

Recommended Corrective Action Plan

In order to address the aforementioned issues, we are recommending approval of the Settlement Agreement with Simgel in the aggregate amount of \$1,375,000 and payment of \$102,229 in retention under the base contract approved by your Board. We are also recommending payments of \$67,401, \$412,000, \$46,510 to MACTEC, Kajima, and SCS Engineers, respectively. In order to properly align the contract levels with payments, we are recommending supplements for the consultant agreements.

To fund the payments due on the Phase I project and address the significant scope and cost issues related to Phase II, we are recommending that all Phase II work be halted pending reevaluation by the Sheriff, CAO, and Public Works and that \$6,490,619 be transferred from Phase II to Phase I. The transferred funds will fund the recommended \$1,549,132 in contractor and consultant payments and \$4,941,487 in remaining Phase I work.

To ensure future compliance with the County's project management and accounting policies on the Sheriff's capital projects, it is recommended that management of all future Sheriff projects that entail: 1) the construction of new structures; or 2) the refurbishment of existing facilities that exceed \$1,000,000 in total cost, be performed by Public Works. Soil or groundwater remediation projects, which are accounted for in the Capital Projects/Refurbishments Budget and should be integrated into regional and County-wide remediation actions, will be managed by the CAO and Public Works. Any exceptions to these recommendations must be approved by the CAO.

The Sheriff is also conducting an internal investigation to identify specific deficiencies in its management of the project. The Sheriff will report the findings and any additional corrective active measures to the CAO within 60 days. The CAO will determine if any further recommendations to your Board are necessary.

Implementation of Strategic Plan Goals

These actions meet the County's Strategic Plan Goals of Organizational Effectiveness, and Service Excellence. The relocation of SEB from the East Los Angeles Civic Center, and the proposed relocation of the Training Bureaus to BC will establish a centralized area for Homeland Security training and response. More specifically, it aligns with these strategies by investing in the public infrastructure with upgraded facilities to meet current code requirements and replacing dilapidated buildings.

FISCAL IMPACT/FINANCING

Upon your Board's approval of the attached appropriation adjustment, which transfers \$6,491,000 from the Biscailuz Center Project, Phase II, C.P. 86801, there will be sufficient appropriation in the 2006-07 Capital Projects/Refurbishments Budget under SEB Project, Phase I, C.P. 77397 to fund the settlement agreement, supplemental consultant agreements, and the remaining work in Phase I. The balance of funding in the BC C.P. 86801 will be \$1,119,000.

The revised total project budget under C.P. 77397, including construction, plans and specifications, consultant services, jurisdictional agency reviews, miscellaneous expenditures and County services is \$16,056,940.

The revised project schedule and budget summary are shown in Enclosure A.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Settlement Agreement and Waiver and Release of Claims has been reviewed and approved as to form by County Counsel and the standard supplemental agreements in the form previously approved by County Counsel will be used.

ENVIRONMENTAL DOCUMENTATION

On November 30, 2004, your Board approved the Mitigated Negative Declaration (MND) and adopted the Mitigation Measures and Monitoring Program prepared by David Evans and Associates, for this project. On January 24, 2006, your Board further approved the Addendum to the MND, which addressed additional grading work and determined the changes to the project were not substantial and would not involve new significant environmental effects or a substantial increase in previously identified significant effects, such that no subsequent MND was required pursuant to section 15162 and 15164 of the State California Environmental Quality Act (CEQA) guidelines.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The Sheriff's Department will take the appropriate measures to minimize any impacts on Sheriff's operations during the completion of the SEB Phase I work.

The Honorable Board of Supervisors
February 20, 2007
Page 8

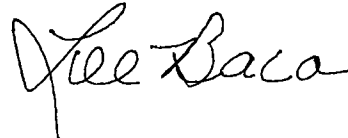
CONCLUSION

Please return one (1) adopted copy of this letter to the CAO (Capital Projects Division), and to the Sheriff's Department (Facilities Planning Bureau).

Respectfully submitted,



DAVID E. JANSSEN
Chief Administrative Officer



LEROY D. BACA
Sheriff

DEJ:LDB:JSE
DJT:RC:z

c: Executive Officer, Board of Supervisors
Auditor-Controller
County Counsel
Public Works

ENCLOSURE A

**SPECIAL ENFORCEMENT BUREAU REPLACEMENT PROJECT
ACCEPT CONTRACTOR'S WORK
APPROVE APPROPRIATION ADJUSTMENT
APPROVE SETTLEMENT AGREEMENT WITH SIMGEL CO. INC.
AWARD VARIOUS CONSULTANT SUPPLEMENTAL AGREEMENTS
C.P. 77397**

I. REVISED PROJECT SCHEDULE

Project Activity	Scheduled Completion Date	Completed Activities Date
Needs Assessment	10/30/00	10/30/00*
Feasibility Study and Site Analysis	11/27/02	11/27/02*
Project Program	11/27/02	11/27/02*
Design		
Contract Execution	05/19/03	05/19/03*
Construction Document Submittal	12/07/04	
Jurisdictional Approval	01/07/05	12/21/05*
Bid and Award Grading Contract	04/04/05	04/04/05*
Construction Substantial Completion	06/30/05	08/29/06*
Acceptance	10/21/05	02/20/07

* Indicates completed activities.

SPECIAL ENFORCEMENT BUREAU REPLACEMENT PROJECT

II. REVISED PROJECT BUDGET SUMMARY

Budget Category	Approved Project Budget 1/24/06	Cost Impact of Recommended Actions	Proposed Revised Project Budget
Relocation Costs	\$100,000	\$0	\$100,000
Construction	\$6,378,049	\$0	\$6,378,049
Simgel – Settlement Agreement	\$0	\$1,375,000	\$1,375,000
Remaining Phase I work	\$0	\$3,449,746	\$3,449,746
Subtotal	\$6,378,049	\$4,824,746	\$11,202,795
Equipment	\$250,000	\$0	\$250,000
Plan and Specifications	\$1,189,667	\$0	\$1,189,667
Kajima – Supplemental Agreement	\$0	\$412,000	\$412,000
Remaining Phase I work	\$0	\$304,092	\$304,092
Subtotal	\$1,189,667	\$716,092	\$1,905,759
Consultant Services	\$523,935	\$0	\$523,935
MACTEC – Supplemental Agreement	\$0	\$67,401	\$67,401
SCS Engineers – Supplement Agrmt	\$0	\$46,510	\$46,510
Remaining Phase I work - Inspection services and soils testing	\$0	\$380,114	\$380,114
Subtotal	\$523,935	\$494,025	\$1,017,960
Miscellaneous Expenditures	\$580,000	\$0	\$580,000
Jurisdictional Review & Plan Check	\$60,000	\$0	\$60,000
Remaining Phase I work	\$0	\$76,023	\$76,023
Subtotal	\$60,000	\$76,023	\$136,023
County Services	\$484,289	\$0	\$484,289
Remaining Phase I work – Project mgt services and Inspection services	\$0	\$380,114	\$380,114
Subtotal	\$484,289	\$380,114	\$864,403
TOTAL PROJECT COST	\$9,565,940	\$6,491,000	\$16,056,940

Notes:

Payments to Simgel, MACTEC, SCS & Kajima = \$1,900,911
 Remaining Phase I work = \$4,941,487
 Total = \$6,842,398

Less available funding in Phase I = (\$ 351,398)

Cost impact (Appropriation Adjustment) = \$6,491,000

**SPECIAL ENFORCEMENT BUREAU REPLACEMENT PROJECT
PHASE I**

Contracts, Change Orders and Supplemental Agreements

Attachment II

Contracts, Change Orders & Supplemental Agreements	Board Authorized Amount	Expended Amount Outstanding	Total Amount to be Expended	Date of Board Letter	Date of Execution	Notes
Kajima - Architect Engineer Agreement						
Base Contract	561,917		561,917	6/1/2004	6/1/2004	
Supplemental Agreement 1	183,000		183,000	11/30/2004	3/8/2005	
Supplemental Agreement 2	74,000		74,000	6/21/2005	8/24/2005	
Supplemental Agreement 3	216,000		216,000	1/24/2006	2/13/2006	
Proposed Supplemental Agreement 4	-	412,000	412,000			
Kajima Subtotal	1,034,917	412,000	1,446,917			
			-			
Mactec - Soil Testing and Inspection						
Base Contract	58,265		58,265	6/1/2004	6/1/2004	
Supplemental Agreement 1 (deputy inspection svcs)	13,500		13,500	6/21/2005	8/4/2005	
Supplemental Agreement 1	70,000		70,000	1/24/2006	2/24/2006	
Proposed Supplemental Agreement 2	-	67,401	67,401			
Mactec Subtotal	141,765	67,401	209,166			
			-			
SCS Engineers - Environmental (Methane Gas Monitoring)						
Base Contract	70,000		70,000	6/21/2005	8/4/2005	
Supplemental Agreement 1	75,000		75,000	1/24/2006	5/24/2006	
Proposed Supplemental Agreement 2	-	46,510	46,510			
SCS Subtotal	145,000	46,510	191,510			
Total consultants	1,321,682	525,911	1,847,593			
Simgel Construction - Construction Contract						
Base Contract	2,892,720		2,892,720	3/1/2005	5/2/2005	1
Change Order (CO) 1	150,000		150,000	3/1/2005	5/16/2005	
CO 2			-		5/25/2005	
CO 3	573,180		573,180	6/21/2005	9/20/2005	2
CO 4			-		11/10/2005	
CO 5	282,411		282,411	1/24/2006	2/28/2006	3
CO 6			-		4/28/2006	
CO 7	-	269,530	269,530			
CO 8	-	324,901	324,901			
			-			
Simgel Subtotal	3,898,311	594,431	4,492,742			
			-			
Total contractor and consultants	5,219,993	1,120,342	6,340,335			
Schedule Delay Claim & Settlement for Simgel	-	780,569				
Amount owed to the contractor and consultants		1,900,911				

Notes:

- (1) Board approved change order authority - \$150,000.
- (2) Board increased change order authority by \$573,180.
- (3) Board approved a change order in the amount of \$282,410.71.

Total amount of the changes orders is: \$ 1,005,591

**SPECIAL ENFORCEMENT BUREAU REPLACEMENT PROJECT and
BISCAILUZ CENTER TRAINING ACADEMY
PHASE I and II
BUDGET RECONCILIATION**

Attachment I

	SEB Phase I 77397	Biscailuz Center Training Academy Phase II 86801
Board Approved Project Budget	\$9,565,940	\$9,000,000
Year-to-Date Expenditures Thru Dec. 2006	\$9,214,161	-\$1,390,223
<u>Settlement; Change Orders and Supplemental Agrmts</u>		
Simgel - general contractor	\$1,375,000	\$0
MACTEC - soils testing and inspection	\$67,401	\$0
SCS Engineers - site exploration	\$46,510	\$0
Kajima - architect/engineer	\$412,000	\$0
Total Amount Owed	\$1,900,911	\$0
<u>Remaining Work to Complete Phase I</u>		
Construction costs		
SEB service building	\$1,053,734	\$0
Specialty vehicle covered walkway	\$100,000	\$0
Walkway at parking	\$89,420	\$0
Landscaping (Irrigation excluded)	\$500,000	\$0
Parking lot sealing and striping	\$56,800	\$0
Off-site storm drain	\$1,132,506	\$0
SEB building exterior screens	\$150,000	\$0
Signage - site and building exterior	\$85,160	\$0
Sub-total	\$3,167,620	\$0
Contingency (20%)	\$633,524	\$0
Escalation (8%)	\$253,410	\$0
Construction sub-total	\$3,801,144	\$0
Soft costs		
Plans & Specification (8%)	\$304,092	\$0
Consultant Services (10%)	\$380,114	\$0
Jurisdictional Agency Review (2%)	\$76,023	\$0
County Services (10%)	\$380,114	\$0
Soft Costs sub-total	\$1,140,343	\$0
Total Remaining Phase I Work	\$4,941,487	\$0
Total Costs for Phase I	\$16,056,559	-\$1,390,223
Funds required from Phase II (Appropriation Adjustment)	\$6,490,619	-\$6,490,619
Funds Remaining in Phase II		\$1,119,158

COUNTY OF LOS ANGELES

REQUEST FOR APPROPRIATION ADJUSTMENT

DEPARTMENT OF **CHIEF ADMINISTRATIVE OFFICE**DEPT'S.
NO. 060
FEBRUARY
13, 2007

AUDITOR-CONTROLLER.

THE FOLLOWING APPROPRIATION ADJUSTMENT IS DEEMED NECESSARY BY THIS DEPARTMENT. WILL YOU PLEASE REPORT AS TO ACCOUNTING AND AVAILABLE BALANCES AND FORWARD TO THE CHIEF ADMINISTRATIVE OFFICER FOR HIS RECOMMENDATION OR ACTION.

ADJUSTMENT REQUESTED AND REASONS THEREFOR

FY 2007
3 - VOTES

SOURCES

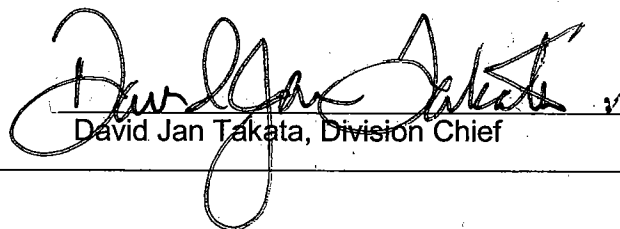
Biscailuz Center (1)
Rfurb - Training Academy Phase II
Fixed Assets - Building & Improvements
A01-CP-65046-86801-6014
\$6,491,000 Decrease Appropriation

USES

Biscailuz Center (1)
SEB Replacement Facility
Fixed Assets - Building & Improvements
A01-CP-65046-77397-6014
\$6,491,000 Increase Appropriation

JUSTIFICATION

Reflects a transfer of appropriation from the Biscailuz Center Phase II Training Academy capital project to the Special Enforcement Bureau Replacement Facility Phase I project to fund: 1) a settlement agreement with the general contractor; 2) additional work performed by both the contractor and consultants; and 3) remaining Phase I scope of work.


David Jan Takata, Division Chief

CHIEF ADMINISTRATIVE OFFICER'S REPORT

REFERRED TO THE CHIEF
ADMINISTRATIVE OFFICER FOR -

ACTION

APPROVED AS REQUESTED ☒

AS REVISED

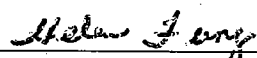
✓ RECOMMENDATION

Feb 12, 2007

John J. Edmiston
CHIEF ADMINISTRATIVE OFFICER

AUDITOR-CONTROLLER

BY

APPROVED (AS REVISED):
BOARD OF SUPERVISORS

20

NO.

159

FEB 5 2007

BY

DEPUTY COUNTY CLERK

SETTLEMENT AGREEMENT AND WAIVER AND RELEASE OF CLAIMS

This Settlement Agreement and Waiver and Release of Claims (hereinafter referred to as "Agreement") is made and entered into by and between the COUNTY OF LOS ANGELES (hereinafter referred to as the "COUNTY"), on the one hand, and SIMGEL CO., INC., a corporation (hereinafter referred to as "CONTRACTOR") on the other hand, on this 24 day of January 2007.

RECITALS

A. On or about May 2, 2005, COUNTY and CONTRACTOR entered into a contract for the Special Enforcement Bureau Replacement Project, Phase I, Grading and Site Work at 1060 North Eastern Avenue in the city of Los Angeles, California (hereinafter referred to as the "PROJECT"). The contract for the PROJECT, together with all change orders and any other modifications thereto, shall hereafter be referred to as the "CONTRACT."

B. PROJECT commenced on May 9, 2005, and was originally scheduled to be completed within three (3) months. The PROJECT was substantially completed on August 29, 2006. The original Construction Contract amount was \$2,892,720.00, and fully executed Change Orders amount to \$986,909.20 as of April 28, 2006. The total amount of the CONTRACT as of April 28, 2006, including all Change Orders executed as of that date, was \$3,879,629.20. COUNTY has heretofore paid CONTRACTOR that full amount, except for withheld retention of \$102,228.73.

C. During construction of the PROJECT and thereafter, a variety of issues have arisen between the parties relative to the PROJECT and the CONTRACT.

D. CONTRACTOR alleged that COUNTY is liable to CONTRACTOR for additional compensation for extra work and for delays in the PROJECT in an amount totaling in excess of \$1,527,132. Many meetings have been conducted to address the compensation for extra work and delay claim.

E. It is now the desire of the parties to this AGREEMENT to resolve all existing issues with respect to the PROJECT, and CONTRACT, subject to the terms and conditions set forth below. Now, therefore, in consideration of the foregoing recitals and the mutual covenants and promises contained herein, the parties agree as follows:

AGREEMENT

1. Recitals

The foregoing recitals A through E are incorporated herein in their entirety by this reference.

2. Settlement Payment

Subject to COUNTY's duty to withhold all or a portion of the settlement payment in the event of any stop notices or as otherwise required by law, COUNTY, within ten working days of the full execution of this AGREEMENT, pay to CONTRACTOR, by way of warrant or check, the total sum of ONE MILLION FOUR HUNDRED SEVENTY SEVEN THOUSAND TWO HUNDRED TWENTY EIGHT DOLLARS AND SEVENTY THREE CENTS (\$1,477,228.73) in full and complete settlement of the issues, including all of the CONTRACTOR'S claims arising out of the PROJECT and the CONTRACT, as provided further below.

3. County's Allocation of Settlement Payment

As stated in paragraph 2 above, the full and complete extent of the COUNTY'S monetary obligation to CONTRACTOR under this AGREEMENT is a single aggregate payment of \$1,477,228.73. Exclusively for purposes of the COUNTY'S internal accounting; however, the COUNTY has allocated said total settlement payment into component parts in subparagraphs (a) through (d) below. Said allocation is for the COUNTY'S accounting purposes only, and it in no way alters, enlarges, expands, decreases or changes in any way COUNTY'S monetary or other obligations hereunder, nor does said allocation or the accompanying "description of the changes in work" constitute an admission of any kind by the COUNTY.

Description of Changes in Work:

Amount Allocated to change

- (a) Out of scope work resulting from various design changes, flagged as Delta 2 on the construction drawings, parking layout, sidewalks, curbs, security fence, drive entrance width, stairs, piles, trash enclosure, location of the service building and car wash areas, grading and storm drain design, and water main and water lines; added sidewalks, security gates, footings, electrical work, finish pad and footings for the services building, concrete paving, a guard station booth with new power and wiring, light standard, relay control panel, and a low-voltage security control panel.

\$ 269,530

(b) Various changes related to the in-field accommodations and impacts of Delta 2 (design changes). This work included loading and hauling and importing base and dirt; excavation at the service building, extending pavement and drain lines, demolition of curb, gutters, and paving; removal of mud due to flooding; installation of wye seals, cabling for CCTV, protective concrete over drain lines; installing a new logo; and applying weed killer, etc.	\$ 324,901
(c) Delay impacts include wet season water pumping/mud removal cleanup, extended stormwater Best Management Practices, subcontractor and materials increased prices, field office overhead for the extended duration, and home office overhead for the extended duration.	\$ 780,569
(d) Retention	\$ 102,228.73
Total of (a) through (d)	\$ 1,477,228.73

4. CONTRACTOR'S Release of COUNTY

CONTRACTOR, on behalf of itself, its owners, partners, joint ventures, and insurers, agents, trustees, attorneys, representatives, successors and assigns and their stockholders, directors, officers, employees and agents, and their parent, subsidiary and sister corporations, hereby waives and releases COUNTY and its employees, officers, directors, insurers, agents, attorneys, consultants and successors and assigns from any and all claims, demands, causes of action, damages, attorney's fees, costs and expenses of every kind, known and unknown, foreseen and unforeseen, arising out of or relating to the PROJECT and the CONTRACT, including, without limitation, claims for extra work, delays, disruption, acceleration, extended field and home office overhead, retention, and increased costs of every kind.

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COUNTY, on its own behalf and on behalf of its employees, officers, agents, and consultants hereby waives and releases CONTRACTOR, its partners, joint ventures, agents, attorneys, consultants and successors and assigns and their stockholders, directors, officers, employees and agents from any and all claims, demands, causes of action, damages, costs, attorney's fees and expenses, for delay and late completion of the PROJECT and CONTRACT, including without imitation, claim for liquidated damages.

6. Claims Reserved to COUNTY

Notwithstanding and as a specific exception to any releases of the CONTRACTOR by the COUNTY as provided for in paragraph 5, the parties agree and acknowledge that COUNTY reserves the following claims against CONTRACTOR:

(A) Any claims for indemnification and/or defense against CONTRACTOR relating to claims or cross-claims against COUNTY arising out of CONTRACTOR'S work on the PROJECT to the extent such claims are asserted by CONTRACTOR'S employees, subcontractors or suppliers of any tier and/or to the extent such claims are for, or are based upon, personal injury or property damage;

(B) Any claims by COUNTY against CONTRACTOR for deficiencies in the work performed by CONTRACTOR on the PROJECT including, without limitation, any claims under Code of Civil Procedure Section 337.15; and

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CONTRACTOR is familiar with Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which, if known by him must have materially affected his settlement with the debtor.

CONTRACTOR hereby waives and relinquishes all rights and benefits which it has or may have under Section 1542 of the California Civil Code with respect to this AGREEMENT.

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The parties consent and agree that the Superior Court of the County of Los Angeles, State of California shall have jurisdiction to enforce the terms and conditions of this AGREEMENT. This AGREEMENT is to be executed and delivered within the State of California, and its validity, construction and performance, as well as the rights and obligations of the parties hereunder, shall be governed, construed and enforced in accordance with the laws of the State of California.

9. **Joint Preparation**

Each of the parties hereto has cooperated and participated in the drafting and preparation of this AGREEMENT. Accordingly, the parties hereby acknowledge and agree that this AGREEMENT shall not be construed or interpreted in favor of or against either of the parties by virtue of the identity of the preparer.

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The parties, and each of them, acknowledge that they may discover facts different from or in addition to those which they now know or believe to be true with

respect to the subject matter of this AGREEMENT, and agree that this AGREEMENT shall be and remain effective in all respects, even if the facts turn out to be different from what they now believe them to be

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The parties, and each of them, warrant and represent to each other that they have not transferred, assigned or hypothecated, or purported to transfer, assign or hypothecate, any of the claims being released hereunder.

12. **No Reliance on Others**

The parties, and each of them, acknowledge that in entering into this AGREEMENT, they have not relied upon any statement of any other party or any other party's attorney, and should any party be mistaken in the party's belief with regard to some issue of fact or law regarding the matters herein released, this AGREEMENT shall nonetheless remain in full force and effect and binding as to each and all of the parties.

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It is understood and agreed that this AGREEMENT is made in compromise of disputed claims and the AGREEMENT is not to be construed as an admission of liability on the part of either party, nor is any statement contained herein to be deemed an admission by either party. It is further understood and agreed that the parties expressly deny liability and merely seek to avoid litigation.

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15. **Successors**

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16. **Counterparts**

This AGREEMENT, and any and all amendments to it, may be executed in counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall constitute a single instrument.

17. **Entire Agreement**

This AGREEMENT constitutes the entire agreement and understanding among the parties concerning the subject matter of the AGREEMENT, and supersedes all prior and contemporaneous agreements, statements, understanding, terms, conditions, negotiations, representations, and warranties, whether oral or written, made by any of the parties or their attorneys concerning the matters covered by this AGREEMENT.

18. **Unenforceability of Part**

In the event that one or more of the provisions, or portions thereof, of this AGREEMENT is determined to be illegal or enforceable, the remainder of this AGREEMENT shall not be affected thereby and each remaining provision or portion thereof shall continue to be valid and effective and shall be enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the CONTRACTOR has executed this AGREEMENT or caused it to be duly executed, and the COUNTY by the authorization of its Board of Supervisors, has caused this AGREEMENT to be executed on its behalf by the Sheriff of the County of Los Angeles on the date and year first above written.

COUNTY OF LOS ANGELES

By _____
Sheriff Leroy D. Baca

By  _____
SIMGEL CO., INC.

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By

Deputy

SETTLEMENT AGREEMENT AND WAIVER AND RELEASE OF CLAIMS

This Settlement Agreement and Waiver and Release of Claims (hereinafter referred to as "Agreement") is made and entered into by and between the COUNTY OF LOS ANGELES (hereinafter referred to as the "COUNTY"), on the one hand, and SIMGEL CO., INC., a corporation (hereinafter referred to as "CONTRACTOR") on the other hand, on this 24 day of January 2007.

RECITALS

A. On or about May 2, 2005, COUNTY and CONTRACTOR entered into a contract for the Special Enforcement Bureau Replacement Project, Phase I, Grading and Site Work at 1060 North Eastern Avenue in the city of Los Angeles, California (hereinafter referred to as the "PROJECT"). The contract for the PROJECT, together with all change orders and any other modifications thereto, shall hereafter be referred to as the "CONTRACT."

B. PROJECT commenced on May 9, 2005, and was originally scheduled to be completed within three (3) months. The PROJECT was substantially completed on August 29, 2006. The original Construction Contract amount was \$2,892,720.00, and fully executed Change Orders amount to \$986,909.20 as of April 28, 2006. The total amount of the CONTRACT as of April 28, 2006, including all Change Orders executed as of that date, was \$3,879,629.20. COUNTY has heretofore paid CONTRACTOR that full amount, except for withheld retention of \$102,228.73.

C. During construction of the PROJECT and thereafter, a variety of issues have arisen between the parties relative to the PROJECT and the CONTRACT.

D. CONTRACTOR alleged that COUNTY is liable to CONTRACTOR for additional compensation for extra work and for delays in the PROJECT in an amount totaling in excess of \$1,527,132. Many meetings have been conducted to address the compensation for extra work and delay claim.

E. It is now the desire of the parties to this AGREEMENT to resolve all existing issues with respect to the PROJECT, and CONTRACT, subject to the terms and conditions set forth below. Now, therefore, in consideration of the foregoing recitals and the mutual covenants and promises contained herein, the parties agree as follows:

AGREEMENT

1. Recitals

The foregoing recitals A through E are incorporated herein in their entirety by this reference.

2. Settlement Payment

Subject to COUNTY's duty to withhold all or a portion of the settlement payment in the event of any stop notices or as otherwise required by law, COUNTY, within ten working days of the full execution of this AGREEMENT, pay to CONTRACTOR, by way of warrant or check, the total sum of ONE MILLION FOUR HUNDRED SEVENTY SEVEN THOUSAND TWO HUNDRED TWENTY EIGHT DOLLARS AND SEVENTY THREE CENTS (\$1,477,228.73) in full and complete settlement of the issues, including all of the CONTRACTOR'S claims arising out of the PROJECT and the CONTRACT, as provided further below.

3. County's Allocation of Settlement Payment

As stated in paragraph 2 above, the full and complete extent of the COUNTY'S monetary obligation to CONTRACTOR under this AGREEMENT is a single aggregate payment of \$1,477,228.73. Exclusively for purposes of the COUNTY'S internal accounting; however, the COUNTY has allocated said total settlement payment into component parts in subparagraphs (a) through (d) below. Said allocation is for the COUNTY'S accounting purposes only, and it in no way alters, enlarges, expands, decreases or changes in any way COUNTY'S monetary or other obligations hereunder, nor does said allocation or the accompanying "description of the changes in work" constitute an admission of any kind by the COUNTY.

Description of Changes in Work:

Amount Allocated to change

- (a) Out of scope work resulting from various design changes, flagged as Delta 2 on the construction drawings, parking layout, sidewalks, curbs, security fence, drive entrance width, stairs, piles, trash enclosure, location of the service building and car wash areas, grading and storm drain design, and water main and water lines; added sidewalks, security gates, footings, electrical work, finish pad and footings for the services building, concrete paving, a guard station booth with new power and wiring, light standard, relay control panel, and a low-voltage security control panel.

\$ 269,530

(b) Various changes related to the in-field accommodations and impacts of Delta 2 (design changes). This work included loading and hauling and importing base and dirt; excavation at the service building, extending pavement and drain lines, demolition of curb, gutters, and paving; removal of mud due to flooding; installation of wye seals, cabling for CCTV, protective concrete over drain lines; installing a new logo; and applying weed killer, etc.	\$ 324,901
(c) Delay impacts include wet season water pumping/mud removal cleanup, extended stormwater Best Management Practices, subcontractor and materials increased prices, field office overhead for the extended duration, and home office overhead for the extended duration.	\$ 780,569
(d) Retention	\$ 102,228.73
Total of (a) through (d)	\$ 1,477,228.73

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COUNTY OF LOS ANGELES

By _____
Sheriff Leroy D. Baca

By 
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APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
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By

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